



# Fidelity and Deposit Company of Maryland

Home Office: P.O. Box 1227, Baltimore, MD 21203-1227

Bond No. 08661009

## SUBDIVISION/SITE IMPROVEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we Neumann Homes, Inc., as Principal, and Fidelity and Deposit Company of Maryland, as Surety, are held and firmly bound unto the Village of Antioch, 874 Main Street, Antioch, IL 60002, as Obligee, in the sum of Five Million Two Hundred Sixty Thousand Eight Hundred Eighty Nine Dollars & Seventy Cents (\$5,260,889.70) for the payment of which, well and truly to be made, we jointly and severally bind ourselves, our executors, administrators, successors, and assigns, firmly by these presents.

WHEREAS, the principal has agreed to perform on-site public improvements as detailed by either the plan(s)/specification(s)/agreement, prepared by, Pearson, Brown & Assoc., Inc., 1850 W. Winchester Rd., Suite 205, Libertyville, IL 60048 to the subdivision known as Deercrest Subdivision Phase 1, Antioch, IL.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said principal shall perform and complete said improvements to said development in accordance with either the plan(s)/specification(s)/agreement, then this obligation shall be void, otherwise to be and remain in full force and effect.

THIS BOND WILL TERMINATE upon written acceptance of the improvements by the Obligee to the Principal and/or Surety.

Sealed with our seals and dated this 27th day of January 2003.

Neumann Homes, Inc.

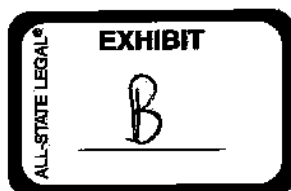
By: \_\_\_\_\_

Kenneth Neumann, President

Fidelity and Deposit Company of Maryland

By: \_\_\_\_\_

Mark R. Malley, Attorney-in-fact

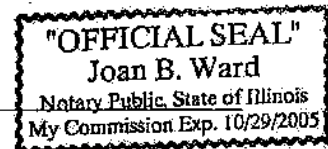


SURETY COMPANY ACKNOWLEDGMENT

STATE OF ILLINOIS)  
COUNTY OF DUPAGE) ss:

On this 27TH day of JANUARY in the year 2003, before me personally came MARK R. MALLEY to me known, who, being by me duly sworn, did depose and say that he resides in Naperville, Illinois; that he is the ATTORNEY-IN-FACT of the FIDELITY & DEPOSIT COMPANY OF MARYLAND the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

*Joan B. Ward*  
Notary Public



(When the principle is a corporation the following acknowledgment should be used)

STATE OF ILLINOIS )  
COUNTY OF DU PAGE ) ss:

On this 27th day of JANUARY in the year 2003, before me personally came Kenneth P. Neumann to me known, who being by me duly sworn, did depose and say that he/she resides in DU PAGE COUNTY; that he/she is the CEO of the Neumann Home, Inc. the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation and that he/she signed his/her name thereto by like order.



*Sandra L. Cook*  
Notary Public

**Power of Attorney**  
**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**  
**HOME OFFICE: 3910 KESWICK ROAD, BALTIMORE, MD 21211**

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by M. P. HAMMOND, Vice President, and L. L. GOUCHER, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint Mark R. Malley, Ronald F. Bentley and Ronald L. Thomas, all of Naperville, Illinois, EACH its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed; any and all bonds and undertakings and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Mark R. Malley, Jane L. Scott, Mark A. Landes, Ronald F. Bentley, and Ronald L. Thomas, dated September 11, 1998.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 11th day of January, A.D. 2001.

ATTEST:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

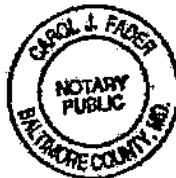


*L. L. Goucher*      *M. P. Hammond*  
L. L. Goucher      Assistant Secretary      M. P. Hammond      Vice President

State of Maryland }  
County of Baltimore } ss:

On this 11th day of January, A.D. 2001, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came M. P. HAMMOND, Vice President, and L. L. GOUCHER, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



*Carol J. Fader*  
Carol J. Fader      Notary Public  
My Commission Expires: August 1, 2004

EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND

"Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertaking, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages,...and to affix the seal of the Company thereto."

CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company,

this 27 day of January, 2003.

  
Assistant Secretary

# HINSHAW

& CULBERTSON LLP

July 28, 2008

**VIA UPS NEXT DAY**

Mr. Kenneth P. Neumann  
Chief Executive Officer  
Neumann Homes, Inc.  
4355 Weaver Parkway  
Warrenville, IL 60555

**ATTORNEYS AT LAW**

222 North LaSalle Street  
Suite 300  
Chicago, IL 60601-1081

312-704-3000

312-704-3001 (fax)

[www.hinshawlaw.com](http://www.hinshawlaw.com)

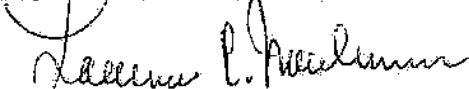
**Re: NeuHaven Subdivision  
Antioch, Illinois**

Dear Mr. Neumann:

Pursuant to the Order entered by the Bankruptcy Court granting relief from stay, the Village of Antioch does hereby declare Neumann Homes, Inc. to be in default of its obligations to complete the Public Improvements under the Public Infrastructure Agreement pertaining to the NeuHaven Subdivision, which Agreement is attached to Antioch's Supplemental Motion For Relief From Stay [Docket No. 610] as Exhibit A. Demand is hereby being made upon your surety, Fidelity & Deposit Company of Maryland, to complete the Public Improvements pursuant to the Bonds which it issued with respect to this Project.

Very truly yours,

HINSHAW & CULBERTSON LLP



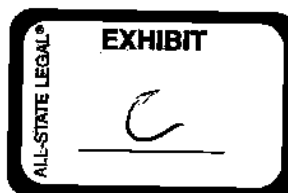
Lawrence R. Moelmann

312-704-3229

[lmoelmann@hinshawlaw.com](mailto:lmoelmann@hinshawlaw.com)

LRM:sje

cc: William M. Laytin (via UPS Next Day)  
Jill Velan (via fax)  
Jim Keim (via fax)  
Adam Simon (via fax)  
Cornelius F. Riordan (via fax)  
George N. Panagakis (via fax)



# HINSHAW

& CULBERTSON LLP

July 28, 2008

VIA FAX (312) 663-1028 & U.S. MAIL

Mr. Cornelius F. Riordan  
Riordan Donnelly Lipinski & McKee, Ltd.  
10 North Dearborn Street  
4th Floor  
Chicago, IL 60602

**ATTORNEYS AT LAW**

222 North LaSalle Street  
Suite 300  
Chicago, IL 60601-1081

312-704-3000  
312-704-3001 (fax)  
www.hinshawlaw.com

Re: Principal: Neumann Homes, Inc.  
Obligee: Village of Antioch, Illinois  
Project: NeuHaven Subdivision  
Bond Nos. 08661009 and 08779406

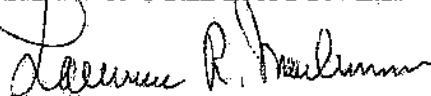
Dear Mr. Riordan:

On July 23, 2008, the Honorable Judge Eugene Wedoff entered an Order granting the Village of Antioch's Motion and Supplemental Motion for Relief From Stay. Pursuant to that Order, the Village of Antioch declared Neumann Homes, Inc. to be in default of its obligations to complete the Public Improvements. A copy of that declaration of default is enclosed.

The Village of Antioch does hereby demand that Fidelity & Deposit Company of Maryland complete the Public Improvements at the NeuHaven Subdivision in accordance with the its obligations under Site Improvement Bond No. 08661009 dated January 27, 2003 and under Site Improvement Bond No. 08779406 dated March 3, 2005. In making this demand, the Village of Antioch reserves all of its rights and remedies with respect to this matter.

Very truly yours,

HINSHAW & CULBERTSON LLP



Lawrence R. Moelmann  
312-704-3229  
lmoelmann@hinshawlaw.com

LRM:sje

cc: Jill Velan (via fax)  
Jim Keim (via fax)  
Adam Simon (via fax)  
George N. Panagakis (via fax)





## LAW OFFICES

CORNELIUS F. RIORDAN  
PATRICK G. DONNELLY  
MARC S. LIPINSKI  
HAROLD E. MCKEE  
WILLIAM S. PIPER

10 NORTH DEARBORN STREET, FOURTH FLOOR  
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TEL: (312) 663-9400  
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WEB ADDRESS: RDLMLAW.COM

JOHN B. O'DONNELL  
STEPHANIE M. REDDY  
REGINA E. GAEREL  
ALEXANDER MCH. MEMMIEN

## OF COUNSEL:

LAURENCE A. VELCHEK  
(LICENSED IN ILLINOIS)  
TIMOTHY J. HARRIS

September 25, 2008

***Via Facsimile & Hand Delivery***  
***Facsimile: (312) 704-3001***

Mr. Lawrence R. Moelmann, Esq.  
Hinshaw & Culbertson, LLP  
222 N. La Salle Street  
Suite 300  
Chicago, IL 60601

<b>Re:</b>	<b>Surety:</b>	<b>Fidelity &amp; Deposit Company of Maryland</b>
	<b>Bond Number:</b>	<b>08779406 and 8661009</b>
	<b>Principal:</b>	<b>Neumann Homes, Inc.</b>
	<b>Obligee:</b>	<b>Village of Antioch, IL</b>
	<b>Project:</b>	<b>NueHaven a/k/a Deercrest</b>

Dear Larry:

As you know, we are the attorneys for Fidelity & Deposit Company of Maryland, ("F&D") the surety for Neumann Homes, inc. ("Neumann") on the captioned bonds, Bond No. 8774904 covers the entire subdivision and Bond No. 8661009 is limited to Phase 1 of Neuhaven. By e-mail dated January 7, 2007, on behalf of the Village of Antioch, Illinois ("Village"), you initially advised F&D of a claim under the captioned bonds for completion of infrastructure improvements in the Neuhaven subdivision. I, on behalf of F&D, acknowledged receipt of your email by return email of the same date.

Similar to the response to the Village's claim in Clublands, F&D responded to the notice by reminding the Village that it would need to obtain stay relief in the Neumann bankruptcy in order to default Neumann and demand performance from F&D. In the interim, we agreed that F&D's consultant, Forcon International - Michigan, Ltd. ("Forcon") would proceed to investigate the potential claim under a full and complete reservation of rights, which it has done.

A stay relief order was entered in the Neumann bankruptcy on July 23, 2008 allowing the Village to declare Neumann in default of its obligations to the Village with respect to the Subdivision. By letter dated July 28, 2008, on behalf of the Village, you declared Neumann in default and by separate letter of the same date, you made demand



Mr. L. Moelmann

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upon F&D to perform under the captioned bond. Please consider this letter as F&D's response to the demand. For the reasons stated herein, F&D will pay up to the full penal sum of Bond No. 8774906, i.e., \$1,692,722.00. F&D respectfully denies the claim of the Village under Bond No. 8661009.

#### **BOND NO. 8661009**

At Neumann's request, on or about January 27, 2003, F&D issued Subdivision/Site Improvement Bond No. 08661009 (the "Bond") in the penal sum of \$5,268,889.70 with the Village, as obligee, Neumann, as principal and F&D, as surety. The Bond provides in relevant part that the condition of the bond is that Neumann shall perform and complete improvements in Neuhausen f/k/a Deercreek according to 'plan(s) specification(s) agreement prepared by Pearson Brown & Associates, engineers for Neuhausen Phase 1.

#### **BOND NO. 8779406**

At Neumann's request, on or about March 3, 2005, F&D issued Subdivision/Site Improvement Bond No. 08779406 (the "Bond") in the penal sum of \$1,692,722.00 with the Village, as obligee, Neumann, as principal and F&D, as surety. The Bond provides in relevant part that the condition of the bond is that Neumann shall perform and complete improvements in Neuhausen f/k/a Deercreek according to 'plan(s) specification(s) agreement prepared by Pearson Brown & Associates, engineers for Neuhausen. The bond did not limit the obligation to any specific phase or phases, but appears to apply to the entire subdivision.

#### **F&D's INVESTIGATION**

As stated earlier, Forcon through its principal, D. Eugene Morgan, investigated the claim of the Village. Mr. William Booker, who worked on the Antioch project for Neumann, and who was recently employed by Forcon, advised us that he believed that the original Neuhausen bond (8661009) had been replaced by the second bond (8779406), when the SSA funding for Neuhausen had been procured. Acting on Booker's advice, we contacted the agent Randy Moon of Arthur J. Gallagher, to see if he could verify Booker's account. Mr. Moon agreed with Booker's version and stated that the amount of the second bond (8779406) was derived from the difference between the original engineer's estimate of cost for Neuhausen improvements and the amount of SSA funding available for those improvements.

In support, he produced portions of his file, which we previously furnished to you. The earliest document is an email dated January 27, 2005, from Bill Laytin, in-house counsel for the principal, copied to representatives of the Village. The email addressed both the Clublands bonds and the NeuHaven bond. In the email, Laytin advised the Village that Neumann would furnish a bond for NeuHaven in the sum of \$1,692,722. Mr. Laytin states that the applicable development agreements provide that the bond



Mr. L. Moelmann

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amount is the difference between the total estimated costs to complete and the SSA funds allocated to on-site improvements as follows:

“(Deercrest/NeuHaven)

Total Amount of cost of improvements as approved by the Engineering Plans	\$8,451,938
Total Available SSA Funds	7,962,469
Less portion allocated to offsite improvements	(1,049,369)
Available under the SSA	6,913,100
Amount required to be bonded	1,538,838
<b>Amount required with 110%</b>	<b>1,692,722”</b>

The file also contains a February 14, 2005 email from Ann Amos of Neumann to George Sakas of Antioch asking if he and an individual identified as Bob had a chance to discuss the amended Clublands bond and the new NeuHaven bond. She states in the email, “if we are in agreement, I will expedite the bond process.” On March 2, 2005, George Sakas replied to Ms. Amos February 14<sup>th</sup> email by requesting that Neumann issue the “Antioch bonds” (obviously referring to Clublands and Neuhaven).

The file documents contain a March 5, 2005 fax from Neumann to Mr. Moon by which Carole Anderson of the principal asks Randy Moon to issue a bond in the penal sum of \$1,692,722 calculated as follows (identical to Laytin’s calculation):

Estimate of Cost to Complete	-	\$8,451,938
Total available SSA Funds	-	7,692,489
Less: portion allocated to offsite imp.		1,049,369
Available under SSA for on-site imp		5,913,100
Amount required by Village for bond		1,538,838
Add: 10% contingency		153,883.80
Total bond amount		\$1,692,722 (rounded)

We have reviewed the Public Infrastructure Agreement for Special Service area Number 1: Deercrest a/k/a Neuhaven and 55 Acres (the “Infrastructure Agreement”) dated June 5, 2003 by and between Neumann and the Village to determine if the comments by Mr. Laytin were consistent with the provisions in the Infrastructure Agreement. The Infrastructure Agreement provides in Recital “J” that the SSA bond proceeds “shall be used to pay for the Public Improvements.”<sup>1</sup>

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<sup>1</sup> “Public Improvements” is a term defined in Recital “F” of the Infrastructure Agreement and generally include, without limitation, streets, sidewalks, curbs, sewer and water lines, storm water drainage systems, landscaping, park improvements and land acquisitions.

Mr. L. Moelmann  
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Section 3.2(c) of the Infrastructure Agreement provides in part:

The parties agree that the Developer shall receive payment for the construction of the Public Improvements in an amount equal to the amount or amounts shown on the budget or budgets attached hereto as Exhibit B, which amounts include a factor for the Developer's construction administration and supervisory expense (the "Budgeted Amounts"). In the event that the actual cost of constructing a particular Public Improvement exceeds the cost budgeted for the Public Improvement ("Excess Cost"), the Developer shall be permitted to utilize funds allocated to other Public Improvements to pay the excess cost.... However, it is understood that despite the Parties best efforts, the cost of constructing the Public Improvements exceeds the Budgeted Amount, then the Developer shall be required to complete construction of the Public Improvements, and to the extent that the amounts available from the [SSA] Improvement Fund are not sufficient to pay for all of the costs of constructing the Public Improvements, the difference shall be paid by Developer. In making such payments, the Developer does not waive any cause of action it may have against the Village for such cost overruns."

Section 3.2(d) of the Infrastructure Agreement provides in part:

"[In the event of a default by Neumann,] the Village shall have the right but not the obligation to complete the Public Improvements using remaining Bond Proceeds on deposit in the Improvement Fund to pay for the completion of the Public Improvements identified in the Project budget attached as Exhibit B under the caption "Bond Proceeds." Additionally, to the extent that the remaining Bond Proceeds are not sufficient to pay for the reasonable cost of such completion of Public Improvements by the Village, the Village shall have the right to draw upon the performance bond identified in Section 3.8(ii) of this agreement for such reasonable additional costs...."

Section 3.8 of the Infrastructure Agreement provides:

3.8 Security for Public Improvements The security requirements of this agreement shall be deemed fully satisfied as follows: (i) no security is required for that portion of the cost of the Public Improvements that are paid, or to be paid from the Bond Proceeds and (ii) to the extent that Bond Proceeds are insufficient to pay for the cost of the Public Improvements (the "insufficient Amount") then the Developer will provide the Village with a performance bond for the Insufficient Amount in an amount not to

Mr. L. Moelmann

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exceed 110% of the Insufficient Amount. In the event that the Bond Proceeds are insufficient to complete the Public Improvements, the Village may draw upon the performance bond for payment of any Public Improvement according to the specifications set forth in the subdivision ordinance."

The above quoted provisions from the Infrastructure Agreement confirm that Mr. Laytin's approach in calculating the bond amount was in accordance with the Infrastructure Agreement. It is clear the Insufficient Amount referred to in Section 3.8(ii) of the Infrastructure Agreement is \$1,538,838 and that 110% of the Insufficient Amount is \$1,692,722. Consequently Bond 8779406 complied with Neumann's obligation under Section 3.8 of the Infrastructure Agreement to provide security to the Village for NeuHaven. Upon its receipt of bond 8779406, the Village was provided the security for which it had bargained. Bond 8661009 was therefore cancelled by substitution upon delivery of bond 8779406 to the Village and its acceptance of Bond 8776406. Additionally, the Infrastructure Agreement requires that SSA Bond Proceeds are to be exhausted before the Village may draw upon or file a claim against Bond 8776406. The village must therefore demonstrate that it has exhausted or will exhaust the Bond Proceeds allocated to NeuHaven before it can obtain recovery from Bond 8779406.

#### CONCLUSION

For the reasons stated above, Bond 8661009 was cancelled upon the Village's receipt of Bond 8779406. Consequently, F&D respectfully denies the Village's claim with respect to Bond 8661009. F&D will pay up to the penal sum of Bond 8779406 for the cost of completion of the NeuHaven Public Improvements, after the SSA Bond Proceeds are exhausted. In that regard, F&D's consultant, Forcon, estimates, using a 20% contingency, that the cost to complete said improvements is \$3,125,000. I recall that you advised me that the available SSA Bond Proceeds in the NeuHaven Improvement Fund is approximately \$1 million. If true, it is likely that the Excess Cost will exceed the penalty for Bond 8779406. I ask that the Village please provide a current accounting of the SAA funds on deposit in the SSA 1 Improvement Fund. In the event that the amount of the price of the contract(s) for completion the Public Improvements for NeuHaven exceed the SSA Bond Proceeds on deposit in the Improvement Fund, F&D will pay the Village the difference between the said Bond Proceeds and the reasonable completion contract price for the Public Improvements in Phases 1,2 and 3 of the NeuHaven subdivision up to \$1,692,722.00, the penal sum of Bond 8779406. F&D will require a full and complete release of the bond in exchange for such payment.

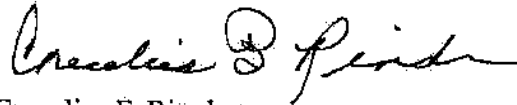
Mr. L. Moelmann

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This letter is not to be construed as an admission of liability on the part of F&D. F&D reserves any and all rights and defenses that either Neumann Homes, Inc. or F&D may have under the applicable development agreement(s), the captioned bond and applicable law. F&D does not intend to waive any such rights and defenses.

Very truly yours,

RIORDAN, DONNELLY, LIPINSKI & MCKEE, LTD.

A handwritten signature in black ink, appearing to read "Cornelius F. Riordan", written in a cursive style.

Cornelius F. Riordan

CFR:ps

cc: Gregory W. Kilburn (via facsimile)



# Fidelity and Deposit Company of Maryland

Home Office: P.O. Box 1227, Baltimore, MD 21203-1227

Bond No. 08779406

## SUBDIVISION/SITE IMPROVEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we Neumann Homes, Inc., as Principal, and Fidelity and Deposit Company of Maryland, as Surety, are held and firmly bound unto the Village of Antioch, 874 Main Street, Antioch, IL 60002, as Oblige, in the sum of One Million Six Hundred Ninety Two Thousand Seven Hundred Twenty Two Dollars & no cents (\$1,692,722.00) for the payment of which, well and truly to be made, we jointly and severally bind ourselves, our executors, administrators, successors, and assigns, firmly by these presents.

WHEREAS, the principal has agreed to perform Site Improvements as detailed by either the plan(s)/specification(s)/agreement, prepared by, Pearson, Brown & Assoc., Inc., 1850 W. Winchester Rd., Suite 205, Libertyville, IL 60048 to the subdivision known as Deercrest Subdivision, Antioch, IL.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said principal shall perform and complete said improvements to said development in accordance with either the plan(s)/specification(s)/agreement, then this obligation shall be void, otherwise to be and remain in full force and effect.

THIS BOND WILL TERMINATE upon written acceptance of the improvements by the Oblige to the Principal and/or Surety.

Sealed with our seals and dated this 3rd day of March, 2005

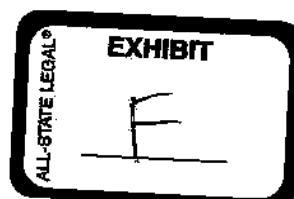
Neumann Homes, Inc.

By: Kathleen F. Washko  
Kathleen F. Washko, Sr. VP Finance/Accounting

Fidelity and Deposit Company of Maryland

By: Randall K. Moon  
Randall K. Moon, Attorney-in-fact

form#



EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND

"Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgments, decrees, mortgages and instruments in the nature of mortgages,....and to affix the seal of the Company thereto."

CERTIFICATE

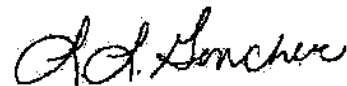
I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have herewith subscribed my name and affixed the corporate seal of the said Company,

this 3 day of March, 2005.



Assistant Secretary

**Power of Attorney**  
**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by PAUL C. ROGERS, Vice President, and T. E. SMITH, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby designate, constitute and appoint Mark R. MALLEY, Ronald F. BENTLEY, Robert L. BARLOW and Randall K. MOON, all of Naperville, Illinois, EACH its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney is void that issued on behalf of Mark R. Malley, Ronald F. Bentley, Ronald L. Thomas, dated January 11, 2001.

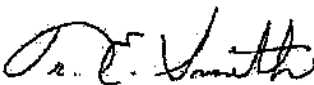
The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.


IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 5th day of April, A.D. 2004.

ATTEST:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND



  
T. E. Smith      Assistant Secretary

  
By: Paul C. Rogers      Vice President

State of Maryland } ss:  
City of Baltimore }

On this 5th day of April, A.D. 2004, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came PAUL C. ROGERS, Vice President, and T. E. SMITH, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

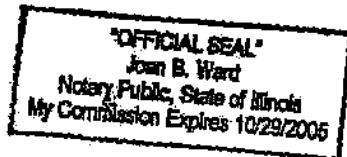


  
Dennis R. Hayden      Notary Public  
My Commission Expires: February 1, 2005

SURETY COMPANY ACKNOWLEDGMENT

STATE OF ILLINOIS)  
COUNTY OF DUPAGE) ss:

On this 3RD day of MARCH in the year 2005, before me personally came RANDALL K. MOON to me known, who, being by me duly sworn, did depose and say that he resides in Naperville, Illinois; that he is the ATTORNEY-IN-FACT of the FIDELITY & DEPOSIT COMPANY OF MARYLAND the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.



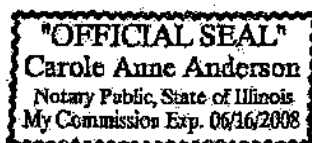
*Joan B. Ward*

Notary Public

(When the principle is a corporation the following acknowledgment should be used)

STATE OF )  
COUNTY OF Cook ) ss:

On this 3rd day of March in the year 2005, before me personally came Kathleen F. Washko, to me known, who being by me duly sworn, did depose and say that he/she resides in Cook County, IL; that he/she is the Sr. V.P. of Finance/Accounting of the Neumann-Hornes, Inc. the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation and that he/she signed his/her name thereto by like order.



*Carole Anne Anderson*

Notary Public





ZURICH

## THIS IMPORTANT DISCLOSURE NOTICE IS PART OF YOUR BOND

We are making the following informational disclosures in compliance with The Terrorism Risk Insurance Act of 2002. No action is required on your part.

### Disclosure of Terrorism Premium

The premium charge for risk of loss resulting from acts of terrorism (as defined in the Act) under this bond is \$ waived. This amount is reflected in the total premium for this bond.

### Disclosure of Availability of Coverage for Terrorism Losses

As required by the Terrorism Risk Insurance Act of 2002, we have made available to you coverage for losses resulting from acts of terrorism (as defined in the Act) with terms, amounts, and limitations that do not differ materially as those for losses arising from events other than acts of terrorism.

### Disclosure of Federal Share of Insurance Company's Terrorism Losses

The Terrorism Risk Insurance Act of 2002 establishes a mechanism by which the United States government will share in insurance company losses resulting from acts of terrorism (as defined in the Act) after a insurance company has paid losses in excess of an annual aggregate deductible. For 2002, the insurance company deductible is 1% of direct earned premium in the prior year; for 2003, 7% of direct earned premium in the prior year; for 2004, 10% of direct earned premium in the prior year; and for 2005, 15% of direct earned premium in the prior year. The federal share of an insurance company's losses above its deductible is 90%. In the event the United States government participates in losses, the United States government may direct insurance companies to collect a terrorism surcharge from policyholders. The Act does not currently provide for insurance industry or United States government participation in terrorism losses that exceed \$100 billion in any one calendar year.

### Definition of Act of Terrorism

The Terrorism Risk Insurance Act defines "act of terrorism" as any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States:

1. to be an act of terrorism;
2. to be a violent act or an act that is dangerous to human life, property or infrastructure;
3. to have resulted in damage within the United States, or outside of the United States in the case of an air carrier (as defined in section 40102 of title 49, United States Code) or a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), or the premises of a United States mission; and
4. to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

But, no act shall be certified by the Secretary as an act of terrorism if the act is committed as part of the course of a war declared by Congress (except for workers' compensation) or property and casualty insurance losses resulting from the act, in the aggregate, do not exceed \$5,000,000.

These disclosures are informational only and do not modify your bond or affect your rights under the bond.